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7 KAMREE MILLER,
8 Plaintiff,
9 v.
10 FRANK MERANDA, et al.,
11 Defendants.

Case No. 18-cv-07323-EMC

**ORDER RE DEFENDANTS' MOTIONS
TO DISMISS**

Docket Nos. 15, 18

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13 Plaintiff Kamree Miller has filed suit against two CHP officers, both in their individual and
14 official capacities: (1) Officer Frank Meranda and (2) Sgt. Keerat Lal (Officer Meranda's
15 supervisor). The claims she has asserted against the CHP officers relate to alleged sexual
16 harassment by Officer Meranda. Currently pending before the Court are two motions to dismiss,
17 one filed by each officer. The Court held a hearing on the motions on February 28, 2019. At the
18 hearing, Ms. Miller made representations about the sexual harassment that are not contained in her
19 complaint. In light of those representations, the Court finds that the most efficient way of
20 proceeding is as follows.

21 1. Ms. Miller has leave to file a first amended complaint ("FAC"). More specifically,
22 Ms. Miller has leave to amend so that (a) she may make additional factual allegations to support
23 her position that Officer Meranda acted "under color of state law" and (b) she may make
24 additional factual allegations as to how long the "lull" in the harassment was (*i.e.*, after Officer
25 Meranda allegedly eased off in his harassment following the January 2015 email but then picked
26 up in the harassment in December 2016). **No other amendments (factual or legal) are
27 permitted.**

28 2. Although the Court is allowing Ms. Miller to file a FAC, it is not denying

1 Defendants' motions to dismiss on the merits. The Court shall apply all arguments in the motions
2 to dismiss to the FAC.

3 3. Ms. Miller shall file the FAC within two weeks of the date of this order. At the
4 same time, Ms. Miller shall file a supplemental brief addressing why the new factual allegations
5 (a) establish that Officer Meranda acted "under color of state law" and (b) support a continuing
6 violations theory.

7 4. Within three weeks of the date of this order, Defendants shall file supplemental
8 briefs addressing the same two issues.

9 5. Each party's supplemental brief shall be no longer than seven (7) pages.

10 6. After receiving the supplemental briefing, the Court shall evaluate the FAC based
11 on the original briefing on the motions to dismiss and on the supplemental briefs ordered herein.

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13 **IT IS SO ORDERED.**

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15 Dated: March 1, 2019

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18 EDWARD M. CHEN
19 United States District Judge
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